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1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
UNITED STATES OF AMERICA,

3 Plaintiff,

4 v.

13 CV 6326 (TPG)

5 PREVEZON HOLDINGS, INC., ET
6 AL.,

7 Defendants.

8 -----x

New York, N.Y.
September 18, 2014
11:46 a.m.

9 Before:

10 HON. THOMAS P. GRIESA,

11 District Judge

12 APPEARANCES

13 U.S. ATTORNEY'S OFFICE
Attorneys for Plaintiff
14 BY: PAUL MONTELEONI
CHRISTINE MAGDO
15 ANDREW ADAMS

16 BAKER & HOSTETLER LLP
Attorneys for Defendants
17 BY: MARK A. CYMROT
JOHN W. MOSCOW
18 LOURA ALAVERDI
AND

19 BAKER BOTTS, LLP
BY: SETH T. TAUBE
20 AND

THE LAW OFFICES OF GABRIELLA VOLSHTEYN, PLLC
21 BY: GABRIELLA VOLSHTEYN

22 GIBSON DUNN & CRUTCHER LLP
Attorneys for Hermitage Capital Management
23 BY: LISA H. RUBIN
24 RICHARD W. MARK
SARAH LYNN KUSHNER
25 CAITLIN WALGAMUTH

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(In open court)

(Case called)

THE COURT: We can go ahead. I would like to start by referring to a letter dated August 7, 2014, from P. Kevin Castel, Chair of the Committee on Grievances for this District Court, and that letter was addressed to Hermitage Capital Management. And the letter notes that this court's committee on grievances was in receipt of Hermitage's letter making a disciplinary complaint against Attorney John Moscow and his law firm, Baker Hostetler.

The letter of August 7th from Judge Castel states: The committee has decided to take no further action in this matter. And it goes on to say: The committee's decision is without prejudice to your right -- in other words, Hermitage's right -- as a non-party to raise your concerns about the potential conflict with Judge Griesa, who is the presiding judge in the action, United States against Prevezon Holdings.

Now, is somebody in court today representing Hermitage?

MS. RUBIN: Yes, your Honor. I am. I'm Lisa Rubin with the law firm of Gibson, Dunn & Crutcher, and with me, your Honor, I have my colleague, Richard Mark.

THE COURT: A little slower and louder.

MS. RUBIN: Sure. If your Honor would prefer, I would be happy to go to the lectern.

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1 THE COURT: Why don't you go to the lectern.

2 MS. RUBIN: Sure. Good morning, your Honor.

3 THE COURT: Good morning.

4 MS. RUBIN: I'm Lisa Rubin of the law firm of Gibson,
5 Dunn and Crutcher. I have with me this morning my
6 colleagues --

7 THE COURT: What is your name again?

8 MS. RUBIN: Lisa Rubin.

9 THE COURT: And you're with Gibson, Dunn?

10 MS. RUBIN: Yes, I am, your Honor.

11 THE COURT: And representing Hermitage, right?

12 MS. RUBIN: Yes, your Honor.

13 THE COURT: Now, my question is, did your firm or
14 Hermitage or both, one or the other, take any step after the
15 letter of August 7 of Judge Castel?

16 MS. RUBIN: Yes, your Honor.

17 THE COURT: What did you do?

18 MS. RUBIN: Your Honor, as you know, last Friday,
19 September 12th, 2014, Mr. Browder, who is the CEO and founder
20 of Hermitage Capital Management, as a non-party to whom
21 subpoenas have been issued in this action, filed a motion to
22 quash, along with a motion for sanctions, and a motion for a
23 protective order. In the accompanying memorandum -- Go ahead,
24 your Honor.

25 THE COURT: I find it difficult to believe that that

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1 is a response to the letter of August 7th.

2 MS. RUBIN: May I respond, your Honor?

3 THE COURT: Right.

4 MS. RUBIN: Our motion discusses in its memorandum of
5 law why the subpoenas issued to Mr. Browder and other affected
6 non-parties are sanctionable, because they are predicated on
7 confidences shared Hermitage Capital Management and Mr. Browder
8 with their former counsel.

9 However, your Honor, we would like the opportunity to
10 more fully brief for your Honor why we believe Mr. Moscow,
11 Baker Hostetler and Baker Botts, as co-counsel in this matter,
12 should be disqualified from representing the defendants in this
13 matter. And with your Honor's permission, under --

14 THE COURT: It seems to me -- and you're responding to
15 my question, but it seems to me clear that -- Let me withdraw
16 that.

17 I don't want to give you legal advice, but the letter
18 of Judge Castel invited Hermitage to raise the concerns about
19 conflict in my case. Now, the way people generally raise
20 things like that is to make a motion.

21 MS. RUBIN: May I respond, your Honor?

22 THE COURT: Let me finish.

23 MS. RUBIN: Sure.

24 THE COURT: Now, I do not regard the motion to quash
25 subpoenas as the kind of motion that was contemplated in Judge

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1 Castel's letter, but if you wish to make such a motion now,
2 then I would be glad to -- I mean, I wouldn't decide it today,
3 but I would be glad to hear whether you wish to make a motion.

4 MS. RUBIN: We do, your Honor. Of course --

5 THE COURT: All right. Now --

6 MR. CYMROT: May I say something? Mark Cymrot for the
7 defendants.

8 MS. RUBIN: I'm sorry, your Honor --

9 MR. CYMROT: May I say something, please?

10 THE COURT: Let me just finish, please. I mean, I'm
11 going to go all around, but the one thing the Court does not
12 wish to do is to make a decision about the status of Mr. Moscow
13 and his firm without there being a proper record. And a
14 motion, Hermitage, of the kind you are suggesting would be a
15 step, in my view, towards creating such a record.

16 And I think another attorney wished to speak.

17 MR. CYMROT: Yes, your Honor.

18 THE COURT: Can you go back to the lectern?

19 MS. RUBIN: I'm sorry, your Honor. Before Mr. Cymrot
20 speaks, may I just briefly respond to one issue?

21 THE COURT: You go ahead. Of course.

22 MS. RUBIN: Okay. I appreciate the opportunity, your
23 Honor. We would be happy to make the motion that your Honor
24 has outlined, but I do want to clarify for the Court that our
25 clients have some jurisdictional concerns. We appear here

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1 today under a special appearance without waiver of those
2 jurisdictional defenses and with an express preservation of
3 those defenses.

4 And, of course, in making such a motion, I would want
5 to ensure that Mr. Browder and Hermitage Capital Management
6 would be doing so under a similar special appearance without a
7 waiver of its jurisdictional defenses.

8 MR. CYMROT: We would object, your Honor.

9 MS. RUBIN: Your Honor, the defendants are attempting
10 to put my client in a Catch 22 or a Hobson's choice.

11 THE COURT: Oh, please. The thing is that, without
12 deciding or hinting at any decision on the merits, it seems to
13 me that Hermitage has a right to pose this issue, and you're
14 going to make a motion opposing the issue in a more formal way
15 than it has been posed thus far.

16 Now, you're not a party to the action. Hermitage has
17 not been sued and it is not suing, and it seems to me the fair
18 thing to do -- and I think I entered an order to this effect
19 going part way -- is to allow Hermitage to make a special
20 appearance for the purpose of raising the issue.

21 Now, I hear that there is an objection to that, and
22 who wants to speak to that?

23 MR. CYMROT: Your Honor, Mark Cymrot for the
24 defendants. If I can recall a history here, your Honor, we had
25 a discussion about this on March 4th, with Hermitage's counsel

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1 sitting right over here, and you invited a motion at that time.
2 They filed none. They complained to our law firm back when we
3 first appeared; so they had notice when we first appeared.
4 Then they didn't file a motion at that time. So we are now a
5 year later.

6 We invited them privately, in a letter, to present
7 their views on why they feel we had confidential information,
8 because we said their letter to us did not specify confidential
9 information, and they didn't respond to us. They filed the bar
10 grievance.

11 THE COURT: They filed a what?

12 MR. CYMROT: The bar grievance before Judge Castel's
13 committee. That bar grievance did not have an assertion in it
14 that we had confidential information. The first time that that
15 was made was by Gibson, Dunn in their pleadings on the motion
16 to quash.

17 So they've had several invitations. We are now a year
18 down the road, and this is going to delay this proceeding. And
19 this is just tactics. And the Circuit has warned that this
20 type of motion should not be used as tactics, and it's even
21 worse because they are defaming a prominent prosecutor in this
22 town, John Moscow. And this has been hanging over him for a
23 year now because they leaked it to the press when they made the
24 grievance, and they leaked it to the press over the weekend
25 with their inaccurate motion.

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1 And I'm prepared to show that what's in their motion
2 about confidential information is absolutely false and comes
3 from public records. Can I show that, your Honor? I'm
4 prepared to hand up some documents to you.

5 THE COURT: No. Now, look --

6 MR. CYMROT: This shouldn't delay this, your Honor.
7 This should not delay this case. It's a year. Our clients
8 have been enjoined for a year now, and this is just a delay
9 tactic.

10 THE COURT: The problem with what you say is this.
11 There has been no authoritative decision by any committee or by
12 this court about whether or not there's a conflict of interest
13 involving Mr. Moscow and his firm.

14 MR. CYMROT: Mr. Castel's -- Judge Castel's --

15 THE COURT: Excuse me. Let me finish, please.

16 I repeat, there has been no decision. Now, if you say
17 there is no occasion for any decision, I don't think that it
18 would be justified for me saying that, in the matter before me,
19 there is no issue properly raised about Mr. Moscow and his
20 firm. I would not be warranted in saying there is no issue
21 raised. And I'm sure you're reciting the record accurately,
22 but what you recite is not, in my view, grounds for me saying
23 that there is no issue properly before the Court.

24 MR. CYMROT: Your Honor, the grievance --

25 THE COURT: And what I want to do is to have a proper

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1 record made and establish a schedule, and whatever decision I
2 need to make will be made on a proper record. In my view,
3 there is no proper record at the moment.

4 MR. CYMROT: Your Honor, may I ask what a proper
5 record -- then, if Mr. Browder is going to lob in allegations
6 from London, that he show up and appear here and be
7 cross-examined about these allegations.

8 THE COURT: Now --

9 MR. CYMROT: Wouldn't that require a proper record?

10 THE COURT: The deposition is noticed for when?

11 MS. RUBIN: May I, your Honor?

12 THE COURT: Yes.

13 MS. RUBIN: May I, Mr. Cymrot?

14 Your Honor, in the subpoena -- there have been two
15 subpoenas that have been issued to Mr. --

16 THE COURT: When is --

17 MS. RUBIN: I'm trying to answer your question, your
18 Honor.

19 THE COURT: Is he subpoenaed to appear here at some
20 point?

21 MS. RUBIN: No, he is not, your Honor.

22 THE COURT: What is the subpoena about, then?

23 MS. RUBIN: The subpoena is for deposition, and there
24 are two of them, your Honor, that have been issued to
25 Mr. Browder.

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1 THE COURT: And to take a deposition?

2 MS. RUBIN: Yes, your Honor.

3 THE COURT: Where?

4 MS. RUBIN: One of the subpoenas was issued to
5 Mr. Browder in Delaware for some months ago and is the subject
6 of pending motion practice that has been recently transferred
7 to this court from the District of Columbia -- from the U.S.
8 District Court for the District of Columbia.

9 There is another subpoena that has been recently
10 issued to Mr. Browder calling for his deposition on
11 August 15th. That subpoena is one of the six subpoenas at
12 issue in the motion to quash that my firm filed last Friday.

13 Neither of them call for him to appear in this
14 district. And, your Honor, as you know, it continues to be our
15 position that Mr. Browder is not subject to rule 45 in this or
16 in any other judicial district in this country. The idea that
17 Mr. Browder should have to come here to have to assert his
18 rights is offensive.

19 THE COURT: Well, nobody was trying to give you
20 offense. Just take it easy.

21 MS. RUBIN: Will do, your Honor.

22 MR. CYMROT: Your Honor, the subpoena called for
23 Mr. Browder's appearance in Aspen, Colorado, where he was
24 served on August 15th, and then by agreement, there was a
25 schedule that you then extended on the motion to quash, and you

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1 gave him more time to file a motion to quash. But the subpoena
2 date has already passed. You're now confronted with a motion
3 to quash.

4 MR. MONTELEONI: Your Honor, might I be heard to make
5 a suggestion?

6 THE COURT: Who's speaking?

7 MR. MONTELEONI: This is Paul Monteleoni for the
8 government. One possible suggestion is that issues about
9 whether it is necessary or appropriate for depositions to be
10 taken to make a record of this type of motion, if there's going
11 to be a motion, might be -- those might be worth briefing. It
12 might make sense to set a briefing schedule now, and one issue
13 that can be addressed in the briefing is whether the court
14 would need to take any testimony in any way from anyone and
15 how. That can be a matter for the briefing, and then the Court
16 can have a written record to decide that.

17 THE COURT: Look --

18 MR. CYMROT: Let them make a motion, your Honor. If
19 they're going to make a motion, let them make it and put a
20 factual record in.

21 THE COURT: Would you like to go to the lectern or do
22 something?

23 MS. RUBIN: Your Honor, after, may I have an
24 opportunity to respond?

25 MR. CYMROT: Your Honor, I'm suggesting that if

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1 they're going to file a motion to disqualify us and Mr. Moscow,
2 that they ought to file their motion. It ought to be on an
3 expedited schedule so we don't delay this case any longer than
4 it already is, and that they put in a proper factual record,
5 which would require an affidavit from Mr. Browder to say what
6 confidential information he supposedly gave our law firm, and
7 then we would be able to respond to that because that's the
8 issue.

9 He says he gave us confidential information, and we
10 don't have confidential information, and that's a new
11 allegation. So if he's going to swear to it, then he ought to
12 swear to it, and he ought to be specific. Otherwise, you don't
13 have a factual record to decide a motion for disqualification.
14 They filed a motion to quash without an affidavit from
15 Mr. Browder.

16 You don't have a factual record to quash this
17 subpoena. It's the same thing. You know, they'll say whatever
18 they want to say. The lawyers are told things by Browder, but
19 they got it wrong, plainly wrong, in the motion to quash. If
20 he's going to make those kind of allegations, he ought to make
21 it in an affidavit on a motion to quash.

22 MS. RUBIN: Your Honor, may I respond?

23 THE COURT: There is a motion to quash, but it has not
24 been fully briefed by the parties.

25 MR. CYMROT: It hasn't been made, your Honor. There

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1 is no motion to quash.

2 THE COURT: I thought there was a motion to quash.

3 MR. CYMROT: No, there is no motion to quash. That's
4 the problem. You don't have a record here. You don't have a
5 grievance. You don't have a motion to quash. There's no
6 reason to have any of this.

7 THE COURT: Would you mind listening to me?

8 MR. CYMROT: Yes, your Honor. I'm sorry.

9 THE COURT: I'm trying to get the record in shape. I
10 know that their record is incomplete. I thought there was a
11 motion to quash, and it had not been fully briefed. Maybe I'm
12 not completely informed, but the thing is, what has to be
13 done --

14 MR. CYMROT: I'm just asking that it be on a --

15 THE COURT: Excuse me.

16 MR. CYMROT: Yes.

17 THE COURT: There is the issue about the role of
18 Mr. Moscow and his law firm that is raised in the letter of
19 August 7 by Judge Castel to Hermitage. Now, no motion was made
20 following that letter, but now Hermitage will make a motion and
21 presumably they will -- I don't know what they will do, but
22 unless all issues are abandoned, apparently that will raise
23 issue about Mr. Moscow's ability to continue and his law firm's
24 ability to continue.

25 Now, so there will be a motion, and we can set a

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1 schedule for that motion. And then, as far as anything else,
2 subpoenas or whatever, I am imposing on the lawyers here today
3 the duty to apprise me of any other issues, and then we'll
4 either defer those issues or we'll establish a schedule to
5 handle those issues. But I am not going to rely on subpoenas
6 issued here and there and so forth.

7 We're together today, and we will establish a schedule
8 for what needs to be scheduled, and that will be that. Now, we
9 do have the proposal of Hermitage to make a motion, which is,
10 obviously, in relation to Mr. Moscow and Baker Hostetler.

11 Now, there's been a lot of emphasis on the use of
12 confidential information. I want to say to you that you better
13 deal with the issue of Mr. Moscow's role and Baker Hostetler's
14 role in the full breadth that it needs to be dealt with. From
15 my knowledge of the record, it is not simply a matter of the
16 use of some confidential information. It is a matter of
17 Mr. Moscow's relationship with his former client and his
18 relationship with his present client, and I'll expect all that
19 to be the subject of the briefing.

20 Now, we're going to have a motion from Hermitage. Is
21 there some party who proposes to oppose that motion and will
22 brief that opposition?

23 MR. CYMROT: Yes, Baker Hostetler will oppose it.

24 THE COURT: Of course you will. All right.

25 MS. RUBIN: Your Honor, may I propose a schedule for

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1 that motion?

2 THE COURT: Okay.

3 MS. RUBIN: I understand your Honor to say that the
4 briefing that's outstanding on the subpoenas is something you'd
5 like to hold in abeyance. Do I understand your Honor
6 correctly?

7 THE COURT: I haven't said that.

8 MR. CYMROT: Your Honor, I object.

9 THE COURT: But I assume we'll come to that.

10 MS. RUBIN: Your Honor, I'd like to propose that
11 Hermitage Capital Management and Mr. Browder make their motion
12 to disqualify Mr. Moscow, his firm and the firm of Baker Botts,
13 which, through their close cooperation, has also been privy to
14 the confidentiality information.

15 THE COURT: I don't understand what you're saying.

16 MS. RUBIN: Sure.

17 THE COURT: Please.

18 MS. RUBIN: Your Honor, I'd like to propose that we
19 move by October 6th.

20 THE COURT: We're going to have a motion from
21 Hermitage, and that motion will be opposed and you, obviously,
22 can agree on a schedule for that motion and that opposition.

23 Is there any other party that wishes to participate in
24 that motion?

25 MR. TAUBE: Your Honor, if I may. Seth Taube for the

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1 law firm of Baker Botts. May I speak very briefly?

2 THE COURT: Right.

3 MS. RUBIN: Your Honor?

4 THE COURT: Who do you represent?

5 MR. TAUBE: A fair question. We have been co-counsel
6 in this case with Baker Hostetler for the defendants. What I
7 heard Ms. Rubin just say --

8 THE COURT: Has your appearance been noted in this
9 court?

10 MR. TAUBE: Yes. We're on all the papers, Judge.

11 THE COURT: All right. Very good.

12 MR. TAUBE: I heard --

13 THE COURT: You're co-counsel with Baker Hostetler?

14 MR. TAUBE: Yes, your Honor. I understood Ms. Rubin
15 is going to try to disqualify us, even though we have never had
16 a prior representation. We will fully brief that.

17 THE COURT: I can't understand what you've just said.
18 What have you just said?

19 MR. TAUBE: Ms. Rubin is going to try to disqualify
20 Baker Botts, as well as Baker Hostetler, as co-counsel in this
21 case, and so we will respond to that as well, since we have
22 never had, as they acknowledge, a conflicting prior
23 representation.

24 THE COURT: All right. So whatever motion is made
25 will be responded to. All right. Is there anything else we

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1 need to do today?

2 MR. CYMROT: Yes, your Honor.

3 THE COURT: I think there is because if there are
4 pending subpoenas and motions about those subpoenas, I'd like
5 to have those noted in court today, and we'll do some
6 scheduling.

7 MR. CYMROT: There is a motion to quash for the
8 subpoenas, your Honor. There is a schedule that your Honor has
9 entered on that, and we think we should go forward with that.
10 And I think you ought to set a schedule for this motion to
11 disqualify because, otherwise --

12 THE COURT: Who is speaking?

13 MR. CYMROT: Mark Cymrot. I'm sorry, your Honor.

14 THE COURT: Why don't you go back.

15 MR. CYMROT: Yes. You established a schedule for the
16 motion to quash, which we are in the midst of briefing. We
17 think that briefing should go forward. We think the motion to
18 disqualify, your Honor, should set an expedited schedule. I
19 think counsel will have a hard time agreeing to it. They're
20 asking for a long time. We think this is a tactic for delay.

21 So I think they ought to file their motion in a week.
22 We'll respond in a week. You'll have a record. But this
23 should be done expeditiously. These kind of allegations
24 shouldn't be hanging out there. They go to the press all the
25 time with this stuff, and it's damaging to people's reputations

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1 and the firm's reputation.

2 THE COURT: Who is going to the press?

3 MR. CYMROT: Well, Mr. Browder is always in the press.
4 He leaked his bar complaint to the press, and they were in the
5 press over the weekend. It was the lead headline in the Wall
6 Street Journal, about the fact that there was a hearing coming
7 today over allegations that John Moscow was operating
8 improperly.

9 MS. RUBIN: Your Honor, may I respond?

10 MR. CYMROT: Your Honor, it's right here: "Former
11 New York prosecutor faces confidentiality breach hearing."
12 This is what they are doing to him, your Honor. We shouldn't
13 let these allegations stay out there. They're in the press and
14 they're improper, and if they're going to assert it --

15 THE COURT: What I am trying to do is establish a
16 schedule so the issues will be resolved.

17 MR. CYMROT: I'm asking for an expedited schedule,
18 that's all, your Honor.

19 MS. RUBIN: May I respond, your Honor?

20 THE COURT: What do you propose as an expedited
21 schedule?

22 MR. CYMROT: They file their motion in a week, and we
23 respond in a week.

24 THE COURT: Sounds good to me.

25 MS. RUBIN: May I respond, your Honor?

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1 MR. CYMROT: Thank you, your Honor.

2 THE COURT: Right.

3 MS. RUBIN: Your Honor, next week --

4 THE COURT: Would you like to go to the lectern?

5 MS. RUBIN: I'd be happy to, your Honor.

6 Your Honor, next week marks the Jewish high holiday.

7 In light of that, and in light of the ensuing holidays Rosh
8 Hashana and Yom Kippur, my initial proposal was that Hermitage
9 Capital and Mr. Browder submit their brief on October 6th.

10 We certainly will not be done with the brief over the
11 pending motion to quash at that point in time. While I
12 appreciate that Mr. Cymrot wants to expedite this briefing,
13 there will be no prejudice to any party in the action by
14 submitting of October 6, after the conclusion of the Jewish
15 high holidays.

16 THE COURT: After the conclusion of?

17 MS. RUBIN: The Jewish high holidays, your Honor.

18 THE COURT: When do they start?

19 MS. RUBIN: They begin next week for two days for Rosh
20 Hashana. They conclude after Yom Kippur on the weekend, I
21 believe. Yom Kippur ends October 4th. October 6th is the next
22 business day. We'd be happy to submit our motion on that day.

23 MR. CYMROT: Your Honor, we all have that issue, but
24 they can file their motion before Rosh Hashanah. We'll file
25 our response before Yom Kippur. This should be done

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1 expeditiously. October 6th is an extraordinary long time
2 for -- they've had a year to do this, and they've had since
3 August 7th, since Judge Castel's letter. They can do it, and
4 they ought to be required to do it.

5 MS. RUBIN: Your Honor, may I? With all due respect
6 to Mr. Cymrot, the letter of August 7th was not received by
7 Hermitage Capital Management overseas until after my firm,
8 Mr. Browder and Hermitage Capital had become aware that your
9 Honor had asked for this morning's hearing in issues including
10 the conflict.

11 That is why no motion was made. Our concerns about
12 the jurisdictional issues that I have already foreshadowed for
13 the Court also were reasons why that motion was not made. We
14 should not be prejudiced by Mr. Cymrot's suggestion that we
15 have three business days, essentially, to submit a brief.

16 These issues are not new to him and his firm, and
17 without going into the record, which I understand your Honor
18 wants to see on a full and fair opportunity for briefing, it's
19 simply not true that our complaints are new to them. We made a
20 complaint with the disciplinary committee. There is also a
21 pending complaint with the First Department --

22 THE COURT: Why don't you just desist for a moment.

23 MS. RUBIN: Happily, your Honor.

24 THE COURT: Mr. Cymrot, what was the schedule you
25 suggested?

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1 MR. CYMROT: I suggested that they file their brief
2 before Rosh Hashana, which I think starts on Thursday next
3 week, which would be a week. We will file our response before
4 Yom Kippur, which starts the following Friday evening. So
5 we'll file it that Friday.

6 THE COURT: Let me make a note on that. Just a
7 second. Just a second.

8 MR. CYMROT: Your Honor, so what we're suggesting is
9 the 24th for their filing and ours for October 2nd.

10 THE COURT: My calendar shows the first day of the
11 Jewish holiday is the 24th.

12 MR. CYMROT: That's sundown, your Honor. So they can
13 file during the day.

14 THE COURT: So what you're suggesting is their motion
15 by the 24th?

16 MR. CYMROT: Correct.

17 THE COURT: Just a minute. And then you would reply
18 when?

19 MR. CYMROT: Thursday, the 2nd, October 2nd.

20 MS. RUBIN: Your Honor, under their proposal, we
21 would --

22 THE COURT: Just a minute. Again, for the umpteenth
23 time, your reply, your answer would be?

24 MR. CYMROT: October 2nd.

25 THE COURT: Which is Thursday before another Jewish

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1 holiday?

2 MR. CYMROT: Correct.

3 THE COURT: Well, I mean, I'll hear from the other
4 side, but that seems to be a reasonable schedule and prompt
5 because we're at the 18th now and --

6 MS. RUBIN: Your Honor, under the schedule that
7 they've proposed --

8 THE COURT: Excuse me. Just a minute. We're at the
9 18th. And what do you suggest as a schedule?

10 MS. RUBIN: Well, your Honor, under the schedule they
11 have, we get under a week and they get more than a week.

12 THE COURT: What do you suggest as a schedule?

13 MS. RUBIN: Your Honor, I would suggest that we
14 provide our brief to the Court on the 29th.

15 THE COURT: Just a minute. And then --

16 MS. RUBIN: And they would have a week to respond. If
17 they would like longer, certainly we'd be open to that as well.

18 THE COURT: Your motion would be filed on the 29th?

19 MS. RUBIN: Yes, your Honor. And that's because with
20 the holidays on the 25th and the 26th --

21 THE COURT: Just a minute.

22 MS. RUBIN: -- I will not be able to prepare and file
23 a response on those dates.

24 THE COURT: Well, I have to say that I think that the
25 idea of filing a motion on the 29th and then the answer a week

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1 or ten days after that makes more sense than trying to have a
2 motion filed on the 24th. That's just too fast.

3 So the schedule is as follows. The motion that is
4 going to be made by Hermitage will be filed on September 29,
5 and then Mr. Moscow and his firm, when do you wish to answer?

6 MR. CYMROT: How about the 7th, your Honor? I would
7 say the 6th, in one week, except for the Jewish holidays; so
8 could we have the 7th, October 7th?

9 THE COURT: Of course, of course. That makes a lot of
10 sense. We've got a good schedule now.

11 MS. RUBIN: Your Honor, will Hermitage also be
12 permitted an opportunity to reply?

13 THE COURT: Well, we've got to schedule a hearing date
14 and, of course, you can file a reply.

15 MS. RUBIN: Would the 14th be an acceptable date to
16 your Honor for a reply?

17 MR. CYMROT: Let's have a hearing on the 14th.

18 THE COURT: I think a hearing on the 14th is a good
19 idea. So we'll have a hearing on October 14th, and the
20 answering brief, again, is October 7, and if anybody wishes to
21 file a reply and so forth, that is usually done on the eve of
22 the hearing. So we've got the motion will be September 29, the
23 answer will be October 7, and the hearing will be October 14th.

24 Now --

25 THE DEPUTY CLERK: 11:00 a.m.

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1 THE COURT: What?

2 THE DEPUTY CLERK: 11:00 a.m. on the 14th, Judge.

3 THE COURT: 11:00 a.m. on the 14th.

4 Now, it seems to me the wise thing to do is to hold
5 everything else in abeyance because after we settle who's
6 representing whom, the briefing that needs to be done on
7 subpoenas and so forth, that can be handled after that. But we
8 need to know what the final, definite lineup of the attorneys
9 is.

10 That is something that we'll take care of with the
11 motion, and everything else will be held in abeyance until
12 after that. And regardless of what schedule I entered at an
13 earlier time, we have a new set of issues now and we have to
14 take care of those new issues, and that's what we'll do. Thank
15 you very much.

16 MS. RUBIN: Thank you, your Honor.

17 MR. CYMROT: Thank you, your Honor.

18 MR. TAUBE: Thank you, your Honor.

19 (Adjourned)
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